

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
W. R. GRACE & CO., et al.)	Case No. 01-01139 (JKF)
)	(Jointly Administered)
Debtors.)	
)	Related Docket Nos: 13406, 15156, 19101
)	& 19105

**DEBTORS' RESPONSE TO CLAIMANT STATE OF CALIFORNIA,
DEPARTMENT OF GENERAL SERVICES' MOTION FOR LEAVE TO FILE
THE EXPERT REPORT OF DR. WILLIAM E. LONGO**

Debtors submit the following response to the Motion for Leave to File the Expert Report of Dr. William E. Longo (the "Motion") which was filed by Claimant State of California, Department of General Services ("California") on July 17, 2008.

BACKGROUND

California has sixteen (16) remaining property damage claims in these bankruptcy proceeding - Claim Nos. 10648-10662 & 14411. All of those claims are subject to Debtors' Motion and Memorandum for an Order Pursuant to F.R.B.P. 7056 Disallowing and Expunging One Hundred Nine (109) California Asbestos Property Damage Claims Barred by the Statute of Limitations (Docket No. 14594) ("Debtors' California Summary Judgment Motion") which was filed with the Court on February 16, 2007.

In Debtors' California Summary Judgment Motion, Debtors argued that all sixteen of California's asbestos property damage claims are time-barred because California sought leave from the United States Supreme Court to file an action against Grace for asbestos-property damage in its buildings in 1990, eleven years prior to Grace's bankruptcy filing. Debtors' California Summary Judgment Motion was fully briefed and was argued by the parties before the Court on April 9, 2007, at which time the motion was taken under advisement.

On January 16, 2007, in conformance with the Court's Case Management Order, California served its "hazard" expert report, authored by Mr. Franco Seif of Clark Seif Clark, Inc., on Debtors. On March 26, 2007, Debtors took the deposition of Mr. Seif in connection with his expert report for California.

In his deposition, Mr. Seif admitted that the asbestos "contamination" that he alleges for the buildings owned by California, would have begun as soon as the buildings were occupied. *See* Excerpts from the March 26, 2007 Deposition of Franco Seif, attached hereto as Exhibit A. The claim forms submitted by California for its buildings establish that all but one of them were built prior to 1973. Any "contamination" alleged by California's hazard expert accordingly occurred in those buildings more than 30 years ago.

If any of California's claims survive Debtors' California Summary Judgment Motion, Debtors will request that the Court schedule a hearing on statute of limitations grounds. Debtors will introduce the above testimony of Mr. Seif, California's own expert witness on hazard, to establish that California's claims are time-barred given than any alleged "contamination" occurred at the buildings by the mid to late 1970s.

RESPONSE TO MOTION

Debtors do not object to California's Motion on the grounds that the filing of the proposed expert report is untimely. Debtors, however, reserve the right to raise at the appropriate time any and all other objections to California's newly proffered hazard expert report, including but not limited to objections to the relevance, weight, validity and admissibility of the report. Debtors further fully reserve the right to move for the admission of the testimony of Mr. Seif, California's original hazard expert, at any and all hearings in these proceedings.


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